

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

RUSSELL WALKER,

Plaintiff,

v.

CIVIL CASE NO. 1:12-00488

CAROLYN W. COLVIN,  
Acting Commissioner of Social Security,<sup>1</sup>

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of findings and recommendations regarding disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation ("PF&R") to the court on March 1, 2013, in which he recommended that the district court reverse the final decision of the Commissioner and remand the case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g). Magistrate Judge VanDervort further recommended that the court dismiss this case from its docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing

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<sup>1</sup> Since entry of Magistrate Judge VanDervort's Proposed Findings and Recommendation, Ms. Carolyn W. Colvin has assumed duty as Acting Commissioner of Social Security, nominally replacing Michael J. Astrue as the Defendant in this matter.

days, in which to file any objections to Magistrate Judge VanDervort's PF&R. The failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

The parties failed to file any objections to the Magistrate Judge's PF&R within the seventeen-day period. Having reviewed the PF&R filed by Magistrate Judge VanDervort, the court adopts the findings and recommendation contained therein.

Accordingly, the court hereby (1) **CONFIRMS** and **ACCEPTS** Magistrate Judge VanDervort's factual and legal analysis, (2) **REVERSES** the final decision of the Commissioner, (3) **REMANDS** the case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g), and (4) **DIRECTS** the Clerk to remove this matter from the court's docket.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to all counsel of record.

It is **SO ORDERED** this 20th day of March, 2013.

**ENTER:**

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge